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10/555,859	11/17/2006	Fabio Amiconi	102792-501 (11233P6 US)	4456
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PARFOMAK, ANDREW N. NORRIS MCLAUGHLIN & MARCUS PA 875 THIRD AVE, 8TH FLOOR NEW YORK, NY 10022			STANLEY, JANE L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/555,859	Applicant(s) AMICONI ET AL.	
	Examiner JANE L. STANLEY	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's reply filed **1 October 2009** has been fully considered. **Claims 1-16, 18-20 and 22-24** are pending; **claims 1-16, 18-20 and 22** are currently amended, **claims 17 and 21** have been cancelled and **claims 23-24** are as previously presented.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5-7, 12-15, 18-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffield (GB 2 374 830) in view of Corradini (GB 2 379 214).

Regarding claims 1-3, 5-7, 14-15, 18, 20 and 22, Duffield teaches water-soluble containers (pg 3, 23; pg 4 ln 18-21) that are filled with liquid compositions (pg 12 ln 23), including water-softening compositions (page 12 ln 13; pg 13 ln 15) comprising: carboxylates such as citrates and builders such as citric acid or polymers such as polyacrylic acid and polyacrylic/polymaleic polymers (carboxylates, pg 18 ln 28; citric acid, pg 19 ln 30; polymers, pg 20 ln 4-8) (instant at least one water-softening active; instant acid; instant carboxylic acid; instant monomeric polycarboxylic acid; instant polymer; instant polycarboxylic acid polymer; instant polyacrylic polymer); C₁-C₃ alcohols (pg 20 ln 23-24) (instant organic solvent); electrolytes (pg 9, ln 5) (instant an electrolyte); and wherein the compositions can be anhydrous **or** comprise at least 5 wt% free water (pg 13 ln 24-25) (instant less than 35 wt% water; instant anhydrous; instant less than 15 wt% free water).

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Duffield teaches the pH of water-softening compositions is of 7 to 9 (page 21 In 4-5) and as such does not teach a pH of between 4.0 to 6.0 when measured as a 5 wt% solution in deionised water at 20 °C. However, Corradini teaches similar water-softening compositions comprising at least one water softening agent including citric acid, polycarboxylates such as citrates, polycarboxylates polymers such as polyacrylates etc. (page 2 In 25 to page 3 In 20), and organic solvents such as C1-C4 alcohols (page 3 In 25-32), wherein the compositions have an ideal pH from 4 to 6 (page 4 In 8-14). Corradini and Duffield are analogous art because they are both concerned with the same field of endeavor, namely water-softening compositions comprising alcohols and softening agents including carboxylates such as citrates, citric acid, and polymers such as polyacrylates. At the time of the invention a person having ordinary skill in the art would have found it obvious to form the compositions of Duffield with the pH taught by Corradini and would have found it obvious to do so in order to obtain water-softening compositions with optimum stability (Corradini page 4 In 9-10).

Regarding claims 12-13, Duffield in view of Corradini makes obvious the composition as set forth above. Duffield further teaches the compositions may include a polyol enzyme stabilizer such as propylene glycol (pg 20 In 15-16) (instant a glycol; instant monopropylene glycol) and also may include C₁-C₃ alcohols including ethanol.

Regarding claim 19, Duffield in view of Corradini makes obvious the composition as set forth above.

Duffield does not disclose the composition as having a viscosity of 500 to 1,000,000 cps measured using a Brookfield viscometer with spindle S31 at 12 RPM and

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20 °C. While Duffield does not teach the viscosity of the composition being measured using a Brookfield viscometer with spindle S31 at 12 RPM and 20 °C, since the composition disclosed is the claimed water-softening composition it is inherent, absent an objective showing to the contrary, that the composition of Duffield would have this property, a viscosity of 500 to 1,000,000 cps, absent evidence to the contrary.

Alternatively, Corradini teaches the similar water-softening compositions wherein the viscosity is from 1000 to 1400 cps when measured with a Brookfield LVF, spindle 2, 12 rpm and at 20 °C (Corradini: page 5 ln 8-9; page 4 ln 22-24). At the time of the invention a person having ordinary skill in the art would have found it obvious to form the compositions of Duffield with the viscosities taught by Corradini and would have been motivated to do so to form a stable gel for water-softening agents which performs well (Corradini page 1 ln 7-9).

Regarding claims 23-24, Duffield further teaches the compositions set forth above are contained in a thermoformed film pocket (pg 3, ln 21-30) made from water-soluble (page 4 ln 20-21) polymers including poly(vinyl alcohol) (pg 4, ln 28-31).

Claims 1-15, 18-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffield (GB 2 374 830) in view of Simion et al. (US 4,828,750).

Regarding claims 1-11, 14-15, 18, 20 and 22, Duffield teaches water-soluble containers (pg 3, 23; pg 4 ln 18-21) that are filled with liquid compositions (pg 12 ln 23), including water-softening and rinse aid compositions (page 12 ln 13; pg 13 ln 15) comprising: carboxylates such as citrates and builders such as citric acid or polymers

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such as polyacrylic acid and polyacrylic/polymaleic polymers (carboxylates, pg 18 ln 28; citric acid, pg 19 ln 30; polymers, pg 20 ln 4-8) (instant at least one water-softening active; instant acid; instant carboxylic acid; instant monomeric polycarboxylic acid; instant polymer; instant polycarboxylic acid polymer; instant polyacrylic polymer); C₁-C₃ alcohols (pg 20 ln 23-24) (instant organic solvent); electrolytes (pg 9, ln 5) (instant an electrolyte); and wherein the compositions can be anhydrous **or** comprise at least 5 wt% free water but less than 80 wt% (pg 13 ln 24-25) (instant less than 35 wt% water; instant anhydrous; instant less than 15 wt% free water) and may comprise nonionic surfactants (pg 13 ln 30 to pg 14 ln 2).

Duffield teaches the pH of water-softening compositions is of 7 to 9 (page 21 ln 4-5) and as such does not teaches a pH of between 4.0 to 6.0 when measured as a 5 wt% solution in deionised water at 20 °C. Duffield also does not teach the citric acid to be partially neutralized by an alkanolamines. However, Simion teaches fabric rinse compositions comprising water, nonionic surfactants, organic acids (abstract) and having a pH of 4.5 to 6.5 (col 3 ln 52-53), wherein the organic acid is preferably citric acid or a triethanolamine salt thereof (col 5 ln 38-50). Simion further teaches that the combination of the citric acid used, nonionic surfactant and pH provide a fabric rinse composition with optimized residual soap and surfactant removal (col 8 ln 57-61) and also teaches that as the pH increases there is a loss in product performance (col 8 ln 12-28; Table IV). Simion and Duffield are analogous art because they are concerned with the same field of endeavor, namely rinse aid fabric care compositions comprising citric acid compounds, surfactants and water. At the time of the invention a person

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having ordinary skill in the art would have found it obvious to use the citric acid compounds i.e. triethanolamine citrate, of Simion in the rinse aid compositions of Duffield and furthermore, would have found it obvious to formulate the compositions of Duffield at the pH of Simion. A person having ordinary skill would have been so motivated as Duffield teaches rinse aid compositions and invites the use of citric acid compounds and further as Simion teaches doing so results in a fabric rinse with optimized residual soap and surfactant removal and that provides a desirable tactile sensation feel to the fabric (Simion col 8 ln 57-61).

Regarding claims 12-13, Duffield in view of Simion makes obvious the composition as set forth above. Duffield further teaches the compositions may include a polyol enzyme stabilizer such as propylene glycol (pg 20 ln 15-16) (instant a glycol; instant monopropylene glycol) and also may include C₁-C₃ alcohols including ethanol.

Regarding claim 19, Duffield in view of Simion makes obvious the composition as set forth above.

Duffield does not disclose the composition as having a viscosity of 500 to 1,000,000 cps measured using a Brookfield viscometer with spindle S31 at 12 RPM and 20 °C. While Duffield does not teach the viscosity of the composition being measured using a Brookfield viscometer with spindle S31 at 12 RPM and 20 °C, since the composition disclosed is the claimed water-softening composition it is inherent, absent an objective showing to the contrary, that the composition of Duffield would have this property, a viscosity of 500 to 1,000,000 cps, absent evidence to the contrary.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duffield (GB 2 374 830) in view of Corradini (GB 2 379 214) as set forth in **claim 1** above, and further in view of Collins (US 3,876,563).

Duffield in view of Corradini makes obvious the water-soluble container and composition as set forth in **claim 1** above. Both Duffield and Corradini teach the compositions to include similar alcohols including methanol, ethanol and propanols (Duffield, C1-C3, pg 20 ln 23-24; Corradini, C1-C4, pg 3 ln 25-32).

However, Duffield does not teach the alcohols to be present from 10 to 70 wt%. Collins teaches liquid detergent compositions comprising alcohol solvents, preferably ethanol, and water mixtures wherein the solvents comprise from 4 to 50 wt% of the composition and have a ratio of water to alcohol of about 3:1 (col 7 ln 33 to col 8 ln 4). Collins and Duffield are analogous art because they are concerned with the same field of endeavor namely detergent compositions comprising alcohol solvents that act as both solvents and stabilizers (Duffield, pg 20 ln 21-23; Collins, col 7 ln 44-56). At the time of the invention a person having ordinary skill in the art would have found it obvious to use the amounts of alcohol solvent taught by Collins in the compositions of Duffield and would have been motivated to do so as Duffield invites the use of such alcohol solvents as ethanol and further as the physical stability of the detergent compositions is improved by such solvents and compositions containing such amounts are desirable from the standpoint of several safety considerations (Collins col 7 ln 44-56).

Response to Arguments

The 35 U.S.C. 102(b) rejection of **claims 1-4, 8-13 and 16** as anticipated by Lee (US PGPub 2001/006936) is withdrawn as a result of Applicant's amendments to the claims.

The 35 U.S.C. 102(b) rejection of **claims 22-24** as anticipated by Duffield (GB 2374830) is withdrawn as a result of Applicant's amendments wherein **claim 22** was re-written as a dependent claim from **claim 1**.

The 35 U.S.C. 103(a) rejection of **claims 1-3, 5-7, 14-15 and 18-21** as unpatentable over Duffield (GB 2374830) in view of Corradini (GB 2379214) is maintained. Applicant's arguments (Remarks pages 5-7) have been fully considered but were not found persuasive.

Applicant alleges that Duffield is not enabling. It is noted, that it is the Office's position that prior art is presumed to be operable/enabling (MPEP 2121) and the burden is on Applicant to provide facts rebutting the presumption of operability (see *In re Sasse*, 629, F.2d 675, 207 USPQ 107 (CCPA 1980); see also MPEP 716.07).

Applicant's arguments are not found persuasive regarding the enabling/operability of Duffield. Applicant states the range of Duffield "less than or more than, is meaningless to the skilled artisan. In real terms, all this suggests is that the composition may or may not contain water". It is noted that Duffield teaches that the compositions placed into the water-soluble containers can either be anhydrous or may contain *some* water. Duffield further teaches that at least 5 wt% or at least 10 wt% free or total water may be present but desirably less than 80 wt% (page 13 ln 23-27). The

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fact that Duffield teaches the compositions can be anhydrous is sufficient to both teach/render obvious the instant claims with respect to the instant water content (claim 1, less than 35 wt%; claim 14 less than 15 wt% **free water**; claim 15, anhydrous) and to suggest to one of ordinary skill in that art that anhydrous i.e. water-free compositions can be included in the compositions placed into the water-soluble packages. The teachings of Duffield further suggest to one of ordinary skill that water amounts of 5 wt% or more or of 10 wt% or more can be used as long as the water amount is less than 80 wt%. Furthermore, the instant water amount limitations of **claims 1 and 14** include in the range the term "less than" which includes zero.

Applicant states that the term "total or free water" of Duffield "has no meaning" and further states "what is free water, and should it be considered part of the total or is it separate? A person of ordinary skill in the art would not know what to make of this, and consequently, would not use the teachings of this reference as motivation for achieving the present invention". It is noted that the terms "free water" and "total water" are art accepted terms that one of ordinary skill in the art would be well aware of. It is also noted that as Duffield teaches total water or free water, Duffield therefore reads on the instant **claim 14** limitation of "free water". Again, Duffield also teaches the compositions to be anhydrous and as such the claim limitations are deemed met.

It is noted that Corradini was used to teach pH and not to alter the water content taught or rendered obvious by Duffield.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANE L. STANLEY whose telephone number is (571)270-3870. The examiner can normally be reached on Monday-Thursday, 7:30 am - 5 pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/JLS/